

11044290463

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

SEP 10 2008

PRE-MUR: 465

DATE ACTIVATED: May 13, 2008

**EXPIRATION OF SOL: October 29, 2012 –
March 17, 2013**

PRE-MUR: 466

DATE ACTIVATED: May 13, 2008

**EXPIRATION OF SOL: November 29, 2012 –
March 17, 2013**

PRE-MUR: 467

DATE ACTIVATED: May 13, 2008

**EXPIRATION OF SOL: December 26, 2012 –
March 13, 2013**

PRE-MUR: 468

DATE ACTIVATED: May 13, 2008

**EXPIRATION OF SOL: April 2, 2012 –
April 14, 2013**

SOURCE:

RESPONDENTS:

Christopher J. Ward

**RELEVANT STATUTES AND
REGULATIONS:**

2 U.S.C. § 432(b)(3)
2 U.S.C. § 432(c)
2 U.S.C. § 432(f)
2 U.S.C. § 432(h)(1)
2 U.S.C. § 434(b)
2 U.S.C. § 441a(a)(4)
11 C.F.R. § 102.9(b)
11 C.F.R. § 102.15
11 C.F.R. § 103.2
11 C.F.R. § 104.3(a)
11 C.F.R. § 104.3(b)
11 C.F.R. § 104.14(d)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: _____

I. INTRODUCTION

Four multicandidate status political committees filed _____ submissions through counsel voluntarily disclosing misappropriated committee funds by their former treasurer, Christopher J. Ward. The submissions allege that Ward intentionally failed to disclose certain receipts and disbursements, failed to deposit funds, and made other reporting and recordkeeping discrepancies in violation of the Federal Election Campaign Act of 1971, as amended, ("the Act").

During the calendar year 2007, Ward apparently misappropriated \$15,000 from Tuesday Group PAC and Sue W. Kelly, in her official capacity as treasurer ("Tuesday Group PAC"); \$2,000 from Dedicated to Establishing National Teamwork PAC and Nanny H. Watkins, in her official capacity as treasurer ("DENTPAC"); \$4,000 from Jobs, Economy and Budget Fund and Brenda Pejovich, in her official capacity as treasurer ("JEBFUND"); and \$20,000 from Commitment to Outstanding Leadership and Direction PAC and Lisa Lisker, in her official capacity as treasurer ("COLDPAC"). Based on the submissions, Ward concealed his

11044290464

1 misappropriations and reporting omissions, which were not discovered until the Committees
2 conducted internal audits. The Committees promptly notified the Federal Bureau of
3 Investigation of the apparent embezzlements. Shortly thereafter, the Committees notified the
4 Commission of Ward's illegal activities and amended the inaccurate disclosure reports. It
5 appears that Ward's activities in these matters may be part of an overarching embezzlement
6 scheme devised by Ward. See Pre-MUR 470 (NRCC), First General Counsel's Report, dated
7 September 10, 2008.

8
9
10
11
12
13
14
15
16

17 We also recommend that the Commission find reason to believe that Christopher J. Ward
18 knowingly and willfully violated 2 U.S.C. § 432(b)(3) by commingling committee funds with his
19 personal funds, and knowingly and willfully violated 2 U.S.C. § 432(c),(d),(h)(1), and 434(b) and
20 11 C.F.R. § 104.14(d) in connection with his duties as treasurer of DENTPAC, JEBFUND, and
21 COLDPAC, by failing to keep account of and disclose certain disbursements and receipts on reports
22 filed with the Commission, failing to deposit receipts, and failing to file timely, complete and
23 accurate disclosure reports with the Commission. Last, we recommend that the Commission

11044290465

1 authorize the use of compulsory process to obtain additional information regarding the extent of
2 Ward's embezzlement schemes and the resulting reporting and recordkeeping omissions.

3 **II. FACTUAL SUMMARY**

4 **A. Tuesday Group PAC**

5 Tuesday Group PAC obtained multicandidate status in September 2007 and has been
6 filing disclosure reports with the Commission since March 2007. See 2 U.S.C. § 441a(a)(4).
7 Ward served as treasurer from the Committee's inception through August 2007, and continued to
8 serve as a compliance consultant until the embezzlement was uncovered. See Tuesday Group
9 Submission at 1. During a six-week period from October through December 2007,
10 Ward embezzled a total of \$15,000 from Tuesday Group PAC by drawing committee funds from
11 its bank account in the form of five checks made payable to himself personally. *Id.* Specifically,
12 the checks were: #2077 dated October 29, 2007, #2081 dated November 15, 2007, #2084 dated
13 November 29, 2007, #2083 dated December 3, 2007, and #2093 dated December 17, 2007, and
14 each was in the amount of \$3,000. *Id.* These checks were not authorized by the Committee and
15 the disbursements were not disclosed on its reports filed with the Commission. *Id.* at 1-2. The
16 unauthorized transactions and disbursements were uncovered by way of a self-initiated audit
17 conducted by Robert Watkins & Company, CPA following media reports of Ward's apparent
18 embezzlement of National Republican Congressional Committee ("NRCC") funds. *Id.* at 1. In
19 March 2008, Tuesday Group amended its reports to disclose these disbursements as
20 "misappropriated funds" on its 2007 Monthly Reports for November and December, its 2007
21 Year-End Report, and 2008 February Monthly Report. The amended reports disclosed an
22 increase in disbursements and decrease in cash-on-hand in proportion to the \$15,000
23 misappropriation by Ward.

11044290466

B. DENTPAC

DENTPAC obtained multicandidate status in December 2007 and has been filing reports with the Commission since August 2006. *See* 2 U.S.C. § 441a(a)(4). Ward, who served as the Committee's treasurer from August 2006 through February 2008, misappropriated \$2,000 of committee funds in the form of an unauthorized check #2022 dated November 29, 2007 made payable to himself personally and drawn from the Committee's account. *See* DENTPAC Submission at 1. This transaction was not disclosed on DENTPAC's reports filed with the Commission. *Id.* For reasons unknown, on February 1, 2008, Ward drew a \$3,500 check #2847 from his personal bank account and deposited into DENTPAC's bank account. *Id.* The Committee discovered these unauthorized and unreported disbursements and transactions during a self-initiated audit conducted by Robert Watkins & Company, CPA following media reports of Ward's apparent embezzlement of NRCC funds. *Id.* In March 2008, DENTPAC filed amendments to its 2007 December Monthly, 2007 Year-End, and 2008 February Monthly Reports. The amended reports disclosed the Committee's \$2,000 check to Ward as "misappropriated funds," and also disclosed Ward's \$3,500 check to the Committee as "repayment of misappropriated funds."

C. JEBFUND

The JEBFUND obtained multicandidate status in October 2006 and has been filing reports with the Commission since March 2006. *See* 2 U.S.C. § 441a(a)(4). Ward served as the Committee's treasurer from February 2006 through February 2008. Ward embezzled \$4,000 of committee funds from the JEBFUND by writing an unauthorized check #93 dated December 26, 2007 to himself personally from the JEBFUND's bank account. *See* JEBFUND Submission at 1. In February 2008, Ward, without explanation, drew two checks from his

11044290467

11044290468

1 personal bank account totaling \$4,208.78 (check #2844 in the amount of \$2,000 and check #
2 2845 in the amount of \$2,208.78) and deposited them into JEBFUND's bank account. *Id.* These
3 unauthorized disbursements and transactions were not disclosed on the Committee's reports filed
4 with the Commission. *Id.* The JEBFUND uncovered the embezzlement by way of a self-
5 initiated audit conducted by Campaign Financial Services following media reports of Ward's
6 apparent embezzlement of NRCC funds. *Id.* In March 2008, the JEBFUND filed amendments to
7 its 2008 February Monthly Report, its 2007 Year-End Report, and its 2007 Monthly Reports for
8 February through December disclosing the unauthorized disbursement to Ward and his
9 reimbursement. The amended reports also made technical corrections including spelling,
10 reporting debts and obligations (a \$500 debt owed to counsel that was not timely reported), and
11 voiding stale checks. *Id.* Last, the JEBFUND's submission alleges that a \$5,000 contribution
12 from another PAC was disclosed as a receipt. *Id.* However, the check was not actually deposited
13 into its bank account; rather, the Committee alleges that Ward inadvertently deposited the check
14 into another PAC's bank account. *Id.* JEBFUND amended its disclosure reports to delete this
15 \$5,000 receipt to reflect the actual bank activity. *Id.*

16 **D. COLDPAC**

17 COLDPAC is a multicandidate political committee and has been filing reports with the
18 Commission since May 2005. *See* 2 U.S.C. § 441a(a)(4). Ward served as treasurer since the
19 Committee's inception through February 2008. Ward embezzled \$20,000 of committee funds
20 from COLDPAC by writing check #1029 to himself personally from COLDPAC's bank account
21 dated April 2, 2007. *See* COLDPAC [redacted] submission at 1. This disbursement was not
22 authorized and not disclosed on COLDPAC's reports filed with the Commission. *Id.* In
23 addition, Ward failed to disclose as a disbursement a \$500 check payable to Political Compliance

1 Services, Ward's company, which was authorized by COLDPAC. *Id.* In April 2008, COLDPAC
2 amended its 2007 Monthly Reports from May through December as well as its 2007 Year-End
3 Report disclosing both the \$20,000 unauthorized disbursement to Ward and the authorized \$500
4 disbursement to his company. *Id.* In addition, COLDPAC's amended reports deleted several
5 checks reported as disbursements, which, however were not issued by COLDPAC. *Id.*

6 **III. LEGAL ANALYSIS**

7
8
9
10
11
12
13
14
15
16
17
18

11044290469

11044290470

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

11044290471

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

11044290472

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

11044290473

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

18 **B. Liability of Christopher J. Ward**

19 According to Commission policy, a former treasurer may be named as a respondent in his
20 personal capacity when it appears that, while serving as a treasurer, he may have violated
21 obligations imposed by the Act or Commission regulations personally on a treasurer and where,
22 among other situations, the violations were knowing and willful. *See Statement of Policy*
23 *Regarding Treasurers Subject to Enforcement Proceedings*. 70 Fed. Reg. 3 (January 3, 2005);

1 *see, e.g.*, MUR 5610 (Earl Allen Haywood), MUR 5721 (Lockheed Martin Employees' PAC)
2 and MUR 5971 (Lindsey Graham for Senate). A knowing and willful violation may be
3 established "by proof that the defendant acted deliberately and with knowledge" that an action
4 was unlawful. *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). In *Hopkins*, the
5 court found that an inference of a knowing and willful violation could be drawn "from the
6 defendants' elaborate scheme for disguising their . . . political contributions . . ." *Id.* at 214-15.
7 The court also found that the evidence did not have to show that a defendant "had specific
8 knowledge of the regulations" or "unclusively demonstrate" a defendant's "state of mind," if
9 there were "facts and circumstances from which the jury reasonably could infer that [the
10 defendant] knew her conduct was unauthorized and illegal." *Id.* at 213 (quoting *United States v.*
11 *Bordelon*, 871 F.2d 491, 494 (5th Cir.), *cert. denied*, 439 U.S. 838 (1989)).

12 The available information suggests that Ward attempted to disguise his embezzlements
13 by not disclosing the unauthorized transactions on Committee reports filed with the Commission.
14 Therefore, we recommend that the Commission make knowing and willful findings as to Ward in
15 his personal capacity in connection with violations of the Act while performing the duties of
16 treasurer of DENTPAC, JEBFUND and COLDPAC.

17 As treasurer, Ward was required to accurately keep an account of and disclose receipts
18 and disbursements. *See* 2 U.S.C. §§ 432(c),(d) and 434(b)(2),(3),(4),(5), and (6)(B) and 11
19 C.F.R. § 104.3(a),(b). Further, he was required to deposit all committee receipts in designated
20 bank accounts. 2 U.S.C. § 432(h)(1) and 11 C.F.R. § 103.3(a). Committee treasurers required to
21 file any report or statement under the Act and the Commission's regulations are also personally
22 responsible for the timely and complete filing of the report or statement and for the accuracy of
23 any information or statement contained in it. 11 C.F.R. § 104.14(d). It appears Ward knowingly

11044290474

1 and willfully failed to keep an accurate account of all disbursements and receipts, and failed to
2 deposit receipts, in connection with his activities as treasurer of DENTPAC, JEBFUND and
3 COLDPAC in order to hide his fraudulent scheme and failed to accurately disclose certain
4 receipts and disbursements in Committee reports filed with the Commission.

5 With respect to the Tuesday Group PAC submission, although Ward served as the
6 Committee's treasurer for a period of time, his embezzlement activities occurred not while he
7 was performing his duties as treasurer, rather while he was serving as the Committee's
8 compliance consultant. See Tuesday Group PAC [redacted] Submission. His embezzlement
9 activities appear to be, nonetheless knowing and willful, and we therefore recommend that the
10 Commission make knowing and willful findings with respect to Ward in his personal capacity for
11 commingling Committee funds with his personal funds in connection with the allegations
12 contained in the Tuesday Group, DENTPAC, JEBFUND and COLDPAC submissions.

13 The Act prohibits the commingling of committee funds with the "personal funds of any
14 individual," including officers of a committee. 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15.
15 The Commission has previously made findings that respondents have violated 2 U.S.C.
16 § 432(b)(3) in matters where individuals misappropriated committee funds by making
17 unauthorized disbursements to themselves or others to pay for personal expenses. See, e.g.,
18 MUR 5610 (Dole), MUR 5721 (Lockwood Martin Employees PAC), MUR 5811 (Dogett for
19 Congress), MUR 5814 (Lamott for Congress), MUR 5872 (Hague for Congress), MUR 5920
20 (Women's Campaign Fund), and MUR 5971 (Lindsey Graham for Senate).

21 Based on information contained in the submissions, Ward knowingly and willfully
22 misappropriated committee funds by writing himself checks from committee accounts without
23 authorization. It appears that Ward either cashed the checks or deposited them into his personal

11044290475

1 bank account. In addition, on at least two occasions, Ward deposited his personal funds into
2 committee accounts by writing checks from his personal bank account and depositing them into
3 committee accounts. See DENTPAC and JEBFUND [redacted] Submissions.

4 Accordingly, we recommend that the Commission find reason to believe that Christopher
5 J. Ward knowingly and willfully violated 2 U.S.C. §§ 432(b)(3),(c),(d), 434(b) and 11 C.F.R.
6 § 104.14(d) in connection with the submissions from DENTPAC, JEBFUND and COLDPAC, by
7 commingling Committee funds with his personal funds, failing to disclose all disbursements and
8 receipts on reports filed with the Commission, and failing to file timely, complete and accurate
9 reports with the Commission, and that Ward knowingly and willfully violated 2 U.S.C.
10 § 432(h)(1) in connection with the allegations contained in the JEBFUND submission by failing
11 to deposit receipts. In addition, with respect to Tuesday Group PAC, we recommend that the
12 Commission find reason to believe that Ward knowingly and willfully violated 2 U.S.C.
13 § 432(b)(3) by commingling Committee funds with his personal funds. Because Ward was not
14 the treasurer or assistant treasurer of Tuesday Group PAC, we make no recommendations that he
15 violated the Act's reporting requirements with respect to this Committee.

16 Ward is also a respondent in Pre-MUR 470 (NRCC), which First General Counsel's
17 Report will be submitted to the Commission simultaneously with this Report. In addition, there
18 are other matters involving allegations of misappropriations by Ward which will be forthcoming.

19 **IV. PROPOSED INVESTIGATION**

20 We do not have sufficient information from the [redacted] submissions to allow the
21 Commission to proceed directly to pre-probable cause conciliation. While the amounts in
22 violation in these submissions appear at this time to be relatively low, we recommend going
23 forward with an investigation because it is not clear how, if at all, Ward's various embezzlements

11044290476

are interrelated. The embezzlements may be intertwined with an overarching embezzlement scheme devised by Ward. Because at this point we do not know the full extent of Ward's embezzlement scheme, we cannot be certain of the full amount in violation in these matters. An investigation of Ward in connection with these matters and Pre-MUR 470 involving the NRCC may reveal that he made further unauthorized transactions from these committees which have not yet been discovered.

Therefore, we recommend that the Commission authorize the use of compulsory process. Our investigation would be focused on getting a full picture of Ward's scheme.

Accordingly, we request that the Commission authorize the issuance of interrogatories and document and deposition subpoenas as necessary.

V. RECOMMENDATIONS

Pre-MUR 465:

1. Open a MUR.

2.

11044290477

3. Find reason to believe Christopher J. Ward knowingly and willfully violated 2 U.S.C. § 432(b)(3).
4. Approve the attached Factual and Legal Analyses.
5. Authorize the use of compulsory process in this matter, including the issuance of interrogatories, document subpoenas, deposition subpoenas and orders.
6. Approve the appropriate letters.

Pre-MUR 466:

1. Open a MUR.
2. _____
3. Find reason to believe Christopher J. Ward knowingly and willfully violated 2 U.S.C. §§ 432(b)(3), (c), (d), 434(b) and 11 C.F.R. § 104.14(d).
4. Approve the attached Factual and Legal Analyses.
5. Authorize the use of compulsory process in this matter, including the issuance of interrogatories, document subpoenas, deposition subpoenas and orders.
6. Approve the appropriate letters.

Pre-MUR 467:

1. Open a MUR.
2. _____
3. Find reason to believe Christopher J. Ward knowingly and willfully violated 2 U.S.C. §§ 432(b)(3), (c), (d), (h)(1), 434(b) and 11 C.F.R. § 104.14(d).
4. Approve the attached Factual and Legal Analyses.
5. Authorize the use of compulsory process in this matter, including the issuance of interrogatories, document subpoenas, deposition subpoenas and orders.
7. Approve the appropriate letters.

11044290478

Pre-MUR 468:


1. Open a MUR.
2. _____
3. Find reason to believe Christopher J. Ward knowingly and willfully violated 2 U.S.C. §§ 432(b)(3), (c), (d), 434(b) and 11 C.F.R. § 104.14(d).
4. Approve the attached Factual and Legal Analyses.
5. Authorize the use of compulsory process in this matter, including the issuance of interrogatories, document subpoenas, deposition subpoenas and orders.
6. Approve the appropriate letters.

Thomasenia P. Duncan
General Counsel

BY:


Ann Marie Terzakian
Associate General Counsel for Enforcement


Sidney Locke
Assistant General Counsel


Christine C. Gallagher
Attorney

9/10/08
Date